

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of  
Tariff Filing Requirements for  
Non-dominant Common Carriers

CC Docket No. 93-36

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FEDERAL COMMUNICATIONS COMMISSION  
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COMMENTS OF PILGRIM TELEPHONE, INC.

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Dated: March 29, 1993

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Pilgrim Telephone, Inc. ("Pilgrim"), by and through its attorneys, hereby files its comments in the above-referenced proceeding.<sup>1</sup>

I. Introduction

Pilgrim is a non-dominant interexchange carrier (IC) providing a variety of 800, 0+ and 1+ and other services on an interstate basis. As a non-dominant IC, Pilgrim is an interested party which would be impacted by the proposals contained in the NPRM. Pilgrim supports the Commission's proposals for tariff filing requirements for non-dominant common carriers.

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<sup>1</sup> Tariff Filing Requirements For Non-dominant Common Carriers, CC Docket No. 93-36, Notice of Proposed Rulemaking, FCC 93-103, released February 19, 1993 ("NPRM").

The filing of tariffs by non-dominant common carriers is legally required under the Act<sup>2</sup>, as is apparent from the Court's decisions in Maislin<sup>3</sup> and the Forbearance Decision.<sup>4</sup> In addition, the filing of tariffs with the Commission may be necessary for demonstrating compliance with various consumer interest rules, including rules related to the provision of 800 and 900 service.

## II. Benefits of Filing

Increasingly, common carriers are witnessing the mandated inclusion of certain statements in their tariffs as a method for enforcing certain practices in interstate telecommunications. The FCC currently has proceedings involving the provision of 800 and 900 service, and both the FCC and FTC have opened investigations pursuant to the Telephone Disclosure Act.<sup>5</sup> In each of these proceedings, common carriers are being required to enact certain tariff restrictions governing how telecommunications service is provided and billed.

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<sup>2</sup> Communications Act of 1934, 47 U.S.C. §§151 et. seq. (Act).

<sup>3</sup> Maislin Industries, U.S., Inc. v. Primary Steel, Inc., - U.S. -, 110 S.Ct. 2759 (1990).

<sup>4</sup> AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992), Rehearing en banc denied January 21, 1993.

<sup>5</sup> Telephone Disclosure and Dispute Resolution Act, Pub. L. 102-556, 106 Stat. 4181 (1992).

In order to meet these obligations, it will be necessary for common carriers to have tariffs on file with the Commission to both demonstrate compliance with the law and to put customers on actual notice regarding prohibited practices. Only with actual notice will common carriers be able to terminate service to customers which runs afoul of these provisions.

In addition, Pilgrim welcomes the opportunity to keep current tariffs on file at the Commission as they provide a vehicle for incorporating other consumer protection and fair notice regulations in its tariffs. Full explanation of tariff rates and regulations will assist Pilgrim and other common carriers in clarifying their rates and policies, and avoiding misunderstandings which can easily occur with either third party providers of various services or with state regulatory authorities.

Finally, the Commission's adoption of the proposals will provide needed assurances to provide stability in commercial telecommunications markets in the current legal and regulatory climate. Commercial and other users of interstate telecommunications services need to be assured that a valid regulatory scheme is in place and have access to timely and accurate tariffs in order to be apprised of the rates, terms and conditions of service, and that these are in compliance with applicable laws and regulations. The Commission's challenge, as

interference to these competitive markets, but still meet legal requirements.

### III. Commission Proposal

Pilgrim believes that the Commission has adequately addressed the challenge of proposing tariff filing requirements which permit non-dominant carriers to meet their legal filing requirements with the least disruption to their operations. The benefits of adopting streamlined regulations are twofold: they provide a level of user comfort and stability in the marketplace, and permit common carriers to quickly respond to market conditions by making rapid changes to their tariffs. This will permit a minimum level of interference with the provision of services in this competitive market, and will minimize the adverse impact of tariffed rates on competition, a goal noted in the NPRM.

The Commission has correctly noted that the competitive nature of the market permits not only forbearance, but also a presumption of validity of tariffs. Carriers should be permitted maximum flexibility to establish either ranges of rates, maximum rates or other flexible pricing arrangements in order to preserve maximum competition. The presumption of validity should only be questioned in instances where a carrier uses market power in a manner to foreclose competitive choice of alternate sources of telecommunications services.

Furthermore, the Commission should permit and encourage varying and flexible pricing arrangements in order to maximize competition and provide alternatives which satisfy the broadest range of consumer requirements. The proposed rules will impose the lowest regulatory and cost burden while satisfying legal requirements and providing both the Commission and the public access to tariffs.

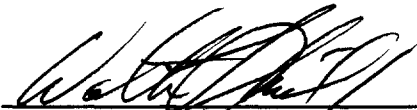
#### IV. Conclusion

Pilgrim supports the recommendations in the NPRM and encourages the Commission to adopt liberal tariff filing and review provisions for non-dominant common carriers.

Dated: March 29, 1993

Respectfully submitted,

**PILGRIM TELEPHONE, INC.**

  
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